

E-015/M-89-512DENYING PETITION WITHOUT PREJUDICE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of the Petition of Minnesota
Power to Amend its Electric Service
Agreement with USX Corporation With
Respect to Excess Power and Energy

ISSUE DATE: February 27, 1990

DOCKET NO. E-015/M-89-512

ORDER DENYING PETITION WITHOUT
PREJUDICE

PROCEDURAL HISTORY

On July 11, 1989 Minnesota Power (the Company) filed a petition for Commission approval of an amendment to its electric service agreement with one of its Large Power Customers, USX Corporation. Under the amendment, USX could take power in excess of the amount specified in its electric service agreement (its contract demand level) without permanently increasing its contract demand level. The rates it would pay for that power were below the Company's tariffed excess power rates. In return, USX would extend the term of its electric service agreement, at half its current contract demand level, one month for each three months it took excess power under the amendment.

The Company proposed to offer similar amendments to all its Large Power customers.

The Department of Public Service, the Residential Utilities Division of the Office of the Attorney General, and a consortium of Large Light and Power customers known as the Superwood Group, opposed the amendment as unduly discriminatory.

A consortium of taconite producers in the Large Power class intervened and supported the amendment.

The matter came before the Commission on February 7, 1990.

FINDINGS AND CONCLUSIONS

Historically, Minnesota Power has negotiated individual contracts, called electric service agreements, with its Large Power customers, subject to Commission approval. This practice has

evolved due to the unique economic environment of northeastern Minnesota. Two of the area's backbone industries, taconite and wood products production, are extremely energy-intensive and sensitive to fluctuations in the global economy. This makes it difficult for these customers to commit themselves on a permanent basis to purchase the large amounts of power they need. At the same time, Minnesota Power cannot ensure these customers adequate supplies without some assurance that the investment necessary to provide such supplies will not be stranded.

What has evolved is the practice of negotiating individual electric service agreements, in which Large Power customers agree to take specified amounts of power (contract demand levels) at tariffed Large Power rates for specified time periods. This enables the Company to make the investments necessary to provide the amounts of power contracted for.

In recent years the Company has also had surplus power available, which has allowed Large Power customers to purchase power over their contract demand levels under contract amendments negotiated with the Company. All such amendments are subject to Commission approval.

Recently, however, the landscape has changed. In its last rate case, the Company filed and the Commission approved an excess power tariff. This tariff sets standard rates for power taken by Large Power customers in excess of their contract demand levels. Allowing individual customers to take power subject to the tariff at non-tariffed rates runs counter to standard regulatory practice.

Furthermore, the Company's surplus power supply has dwindled, due to sales of certain generating facilities to other utilities and other factors. This tends to undermine the rationale justifying the sale of excess power at individually negotiated rates.

Finally, the Commission has recently approved a complex accounting mechanism which credits revenues from excess power sales to the retirement of a special account which, broadly speaking, may otherwise have to be retired through a general rate increase.¹ (This account is the AFPO account, representing the anticipated gain from the abortive sale of the Company's Clay Boswell 4 unit to Northern States Power Company.) Therefore, sales of excess power below the excess power tariffed rate may jeopardize timely retirement of this account, to the potential detriment of other ratepayer classes.

Under these circumstances, the Commission concludes that the proposed amendment, which the Company intends to offer all Large Power customers in any case, would more properly be submitted and considered as a tariff filing. The Commission will require the Company to submit the proposed amendment in that form, assuming it continues to support the amendment.

The Commission notes it was the intent of the Company and the customer for the rates contained in the amendment to take effect in July 1989 and for the Company to refund to the customer the difference between the excess power rate and the negotiated rate upon Commission approval of the amendment. Today's decision does not reach the issue of effective date and does not necessarily

¹ See In the Matter of the Petition of Minnesota Power and Light Company, d/b/a Minnesota Power, for Authority to Change its Schedule of Rates for Retail Electric Service in Minnesota, Docket No. E-015/GR-87-223, ORDER APPROVING AND CLARIFYING AFPO AGREEMENT (September 8, 1989).

preclude a July effective date for any tariff amendment which may ultimately be approved.

ORDER

1. The Company's petition for approval of contract amendment, filed July 11, 1989, is denied without prejudice.
2. Should the Company continue to support the substance of the proposed contract amendment, it shall file an amended excess power tariff incorporating its terms.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson
Acting Executive Secretary

(S E A L)